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2024/2025 Budget Proposals

Tax Overview

21 February 2024

by the Werksmans Tax Team

Introduction

Minister of Finance Enoch Godongwana delivered his third Budget speech of his term on 21 February 2024.

The Budget presents an overall synopsis of the state of the country's finances, amendments to tax, spending plans for the upcoming fiscal year, distribution of revenue across spheres of government and distribution of expenditure across national departments.

Setting out the government's tax and spending plans for the year ahead, Godongwana said his plans were focused on policies that accelerate economic growth, spur job creation and promote a broad improvement in livelihoods.

This was in response to an estimated growth in the economy of 0.6% in 2023 which is the result of power cuts, the poor state of ports and freight rail, and inflation. Unsurprisingly, to accelerate economic growth, structural reform is required as without a competitive electricity market and efficient port and rail logistics systems, economic growth will continue to stagnate.

Particular attention was given to debt-service costs which are choking the economy and the public finances. These costs consume one of every five rands of revenue and absorb a larger share of the budget than basic education, social protection or health. Fiscal policy continues to prioritise stabilising debt and debt-service costs.

Godongwana acknowledged that to grow faster and create jobs, South Africa needs massive investment, the bulk of which will come from the private sector. Accordingly, the 2024 Budget outlines what it describes as a balanced policy stance that will support higher public and private investment, while stabilising debt and reducing overall fiscal risks.

In contrast to the 2022 and 2023 fiscal periods, tax collections were worse than expected with the estimated tax revenue for 2023/24 now expected to amount to R1.73 trillion, which is R56.1 billion less than expected in the 2023 Budget. Windfall tax gains from high commodity prices over the last two years has come to an end with a 50% drop in mining provisional tax collections.

While corporate income tax collection has dropped off significantly, it was noted that recent personal income tax collections have outpaced expectations and is higher in percentage terms than last year. Personal income tax remains the largest contributor to revenue collection making up at least 38% of total tax revenue and is described in the Budget as the "most stable and resilient tax base".

For some time now, government has warned against the negative effects of a rate increase as it would threaten economic growth, result in further emigration, higher non-compliance and would make South Africa unattractive for foreign investment.

Government's long-term tax policy strategy remains focused on broadening the tax base while improving tax compliance and administrative efficiency. The latter has been previously described by the Commissioner of the SARS as the "compliance dividend".

The Budget tax proposals are estimated to raise revenue of R15 billion in 2024/25. Having described personal income tax as the "most stable and resilient tax base" it comes as no surprise then that the main tax proposal is the absence of an inflation adjustment to the personal income tax tables (thus resulting in so-called 'bracket creep' where one is pushed into a higher income tax bracket even though there is no increase in remuneration in real terms) and medical tax credits. The other main tax proposal is higher excise duties on alcohol and tobacco products.

A notable announcement is that South Africa will implement a global minimum corporate tax, with multinational corporations (MNEs) subject to an effective tax rate of at least 15% regardless of where its profits are located. The minimum tax is only applicable to MNEs with annual revenue exceeding €750 million, which is a significant threshold for South African MNEs. The effective date of the new legislation, once enacted, will be 1 January 2024, though the tax due will only be payable some considerable time after the tax year-end of the company. The projected collection from the minimum tax for the 2026/ 2027 year is anticipated to be R8 billion.

Overall, most will be pleased that there are no increases to corporate tax, income tax and VAT. However, in so far as individuals are concerned, no inflationary relief is provided through an adjustment in the personal income tax brackets, which is tantamount to a rate increase.

In addition to the tax changes, the Budget documentation sets out a considerable number of proposed amendments to the various fiscal Acts. Many of these are either of a highly technical or esoteric nature, and therefore the overview reports on those believed to be of more widespread interest to individuals and companies. For tax changes announced at this Budget, draft legislation and responses to consultations would normally be published in July 2024. The legislation would then be introduced towards the end of 2024.

INDIVIDUALS

Personal Income Tax and CGT

Individuals earning more than R1.817 million of taxable income per year will be taxed at 45%, with the top effective rate of CGT remaining at 18%. The first R40 000 of exempt capital gains also remains unchanged.

The personal income tax brackets and the primary, secondary and tertiary rebates are not increased.

Two-pot retirement reforms

The so-called "two-pot" retirement system formed an integral part of the 2023 budget, but its implementation was delayed. From 1 September 2024, contributions to retirement funds will be split, with one-third going into a "savings component" and two-thirds going into a "retirement component". The intention of this reform is to enable pre-retirement access to a portion of one's retirement assets. Retirement fund members will be able to withdraw amounts from the savings component of the retirement fund before retirement, while the retirement component will remain protected. The reform will harmonise permissible pre-retirement withdrawals across funds.

Contributions to the retirement funds will remain tax deductible and growth in the fund will remain tax-free. Any pre-retirement withdrawals from the savings component of the retirement fund will be taxed at marginal rates, like all other income, however, when taxable income is lower, taxpayers will be taxed at lower rates. The proposal envisages that withdrawals will be limited to one per tax year, with the minimum withdrawal amount being R2,000.

The optimal option remains to preserve retirement savings for as long as possible, as the amounts grow at compound rates and can attract lower tax rates. Therefore, where a person does not withdraw fully, or at all, from the savings component, the amounts remaining upon retirement can be withdrawn and will be taxed according to the retirement lump sum table, which at present includes a tax-free lump sum of R550 000.

While inherently a savings driven initiative, National Treasury anticipates that an estimated R5 billion is to be raised in 2024/25 due to tax collected as a result of fund members accessing the once-off withdrawals under the two-pot retirement reform.

Employment tax incentive (ETI) and curbing abuse

The ETI is aimed at encouraging employers to hire young work seekers. It reduces an employer's cost of hiring work seekers between the age of 18 and 29 through a cost-sharing arrangement with government by allowing the employer to reduce its monthly employees' tax (PAYE) liability for a qualifying employee while leaving the qualifying employee's wage unaffected.

The ETI legislation was amended in 2021 and 2023 to prevent abuse of the incentive involving the "employment" of students who mainly study at a training institution, and undertake no work or limited work for the employer. However, the use of abusive schemes is continuing, and penalties will be introduced into the law to support the prior amendments and discourage such schemes.

Extension of Learnership Tax Incentive

The learnership tax incentive is aimed at supporting workplace education, skills development and employment. The sunset date of the incentive, currently 31 March 2024, will be extended to 31 March 2027 to allow additional time for the evaluation of the incentive before a decision is made on its future.

Cross-border loans to non-resident trusts

Section 7C of the Income Tax Act, 1962, is a specific anti-avoidance provision that limits the ability of natural persons to transfer wealth on a tax-free basis to trusts through the use of low-interest or interest-free loans. The concept of a low interest loan is benchmarked with reference to the "official rate of interest" (being the prevailing repurchase rate of the currency of denomination of the loan plus 100 basis points). The effect of section 7C is, inter alia, to deem the natural person to have donated to the trust on the last day of the trust's year of assessment in an amount equal to the interest forgone by the natural person during the relevant year of assessment as a result of the lender not charging interest on the loan at the official rate of interest.

The transfer pricing provisions also apply to a low-interest or interest-free loan made by a resident natural person to a non-resident trust which is a connected person in relation to such natural person.

To prevent double taxation as a result of both section 7C and section 31 applying to the same cross-border loan, section 7C is made subject to the provisions of section 31.

In the National Budget Review, it is stated that the carve-out to section 7C does not effectively address the interaction between section 7C and section 31 in cases where the arm's length interest rate is lower than the official rate of interest. It is proposed that amendments be made to provide clarity in this regard.

CORPORATE TAX

Corporate tax rate

From last year the corporate tax rate was reduced to 27%.

The commencement date for the reduced corporate rate coincided with assessed loss limitation rules in terms of which corporate taxpayers are only allowed to claim assessed losses against 80% of their income, as well as the interest limitation rules.

The 27% rate and limitation on the use of assessed losses remain in place.

Local electric vehicle production incentive

To encourage the production of electric vehicles in South Africa, it is proposed that an investment allowance will apply to new investments from 1 March 2026. Producers will be able to claim 150% of qualifying investment spending on production capacity for electric and hydrogen-powered vehicles in the first year of investment.

Refining amendments to the anti-avoidance provisions dealing with third-party backed shares

Third-party backed preference shares are effectively treated as debt for income tax purposes as any dividend on such shares is deprived of its tax exemption. There are exceptions to this provision, the most common of which applies where the company issuing the third-party backed preference shares utilises the resultant subscription capital to acquire equity shares in an operating company from an unconnected party (Target Company), referred to as a "qualifying purpose". An operating company includes a company that is a listed company. In 2023, an additional requirement was added that the equity shares in the Target Company need to be held by the person that acquired the shares at the time of the receipt or accrual of any dividend on the preference shares. Provided that is the case, the dividends on the third-party backed preference shares will not be recharacterised as income and will retain their nature as exempt dividends in the hands of the holder.

Where the equity shares in that operating company are no longer held (on a direct or indirect basis) by the person who initially acquired them but the funds derived from the disposal of the shares are used to redeem the preference shares within 90 days of deriving the funds then the dividends will continue to be exempt from income tax. However, if the funds from the disposal are used to declare and pay a dividend on the preference shares the dividends will be taxed as income. Thankfully, it is proposed that the legislation be amended to allow the disposal proceeds to be used to declare and pay any dividends, foreign dividends or interest in respect of the redemption of those preference shares.

In addition, if the share in the operating company is a listed JSE share which is no longer held because it is substituted for another listed share pursuant to a corporate action as contemplated in the JSE rules, the dividends will continue to be exempt from income tax. It is proposed that the corporate action exception be extended to shares listed on a recognised foreign exchange.

Reviewing the application of the de-grouping charge in intra-group transactions

Section 45 of the Income Tax Act provides for the tax neutral transfer of assets between companies that form part of the same group of companies by way of intra-group transactions. The intra-group rules contain a so-called "de-grouping" charge, which unwinds the tax neutral treatment of an intra-group transaction.

The de-grouping charge can result in a deemed capital gain or inclusion in gross income for a transferee company when a transferee company, within six years of an intra-group transaction, ceases to form part of the same group of companies as (i) the transferor company, or (ii) a controlling group company in relation to a transferor company. The de-grouping charge can apply in (ii), where there is a change of shareholding in a controlling group company higher up the chain, even though the transferee company is still part of the same group of companies as the transferor company that was a party to the original intra-group transaction (though SARS has given a number of binding rulings that say that there will not be a degrouping in such case).

It is proposed that the scope of the de-grouping charge be narrowed to avoid the de-grouping charge if the transferee company and the transferor company that were parties to the original transaction remain part of the same group of companies despite a change in shareholding of a controlling group company.

INTERNATIONAL TAX

Global Anti-Base Erosion (GloBE) Rules

The GloBE Rules are a global minimum tax developed by the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS), which is led by the OECD.

It ensures that any MNE with annual revenue exceeding €750 million will be subject to an effective tax rate of at least 15%, regardless of where its profits are located. What is interesting is that government proposes to introduce two measures to give effect to this change for qualifying multinationals from 1 January 2024, being: (i) an income inclusion rule; and (ii) a domestic minimum top-up tax.

The income inclusion rule will enable South Africa to apply a top-up tax on profits reported by qualifying South African MNEs operating in other countries with effective tax rates below 15%, while the domestic minimum top-up tax will enable SARS to collect a top-up tax for qualifying multinationals paying an effective tax rate of less than 15% in South Africa.

The GloBE Rules are contained in a draft of Global Minimum Tax Bill which was released simultaneously with the Budget documentation. Once the Bill is enacted it will apply retrospectively as it states that is deemed to have come into operation on 1 January 2024 and applies to Fiscal Years beginning on or after that date.

Despite the 1 January 2024 date, the introduction of these rules is only expected to generate corporate tax collection in 2026/27, with the estimated tax collection to be R8 billion.

It must be said that the drafting of the Bill leaves much to be desired and if it is not drastically improved one can foresee myriad problems in its interpretation.

INDIRECT TAXES

Nearly all of the increase in revenue is effected through direct taxes. As noted, there is no increase to the general fuel levy and no increase to the VAT rate.

The proposed changes to the VAT legislation are of a limited technical nature.

EXCHANGE CONTROLS

No exchange control announcements were made.

Tax Rates and Thresholds

Individuals and Special Trusts

Personal income tax rate and bracket adjustments

2024/25		2023/24	
Taxable Income (R)	Rates of Tax	Taxable Income (R)	Rates of Tax
0 – 237 100	18% of each R1	0 – 237 100	18% of each R1
237 101 – 370 500	R42 678 + 26% of the amount above R237 100	237 101 – 370 500	R42 678 + 26% of the amount above R237 100
370 501 – 512 800	R77 362 + 31% of the amount above R370 500	370 501 – 512 800	R77 362 + 31% of the amount above R370 500
512 801 – 673 000	R121 475 + 36% of the amount above R512 800	512 801 – 673 000	R121 475 + 36% of the amount above R512 800
673 001 – 857 900	R179 147 + 39% of the amount above R673 000	673 001 – 857 900	R179 147 + 39% of the amount above R673 000
857 901 – 1 817 000	R251 258 + 41% of the amount above R857 900	857 901 – 1 817 000	R251 258 + 41% of the amount above R857 900
1 817 001 and above	R644 489 + 45% of the amount above R1 817 000	1 817 001 and above	R644 489 + 45% of the amount above R1 817 000

Rebates

	2024/25	2023/24
	R	R
Primary	17 235	17 235
Secondary (Persons 65 and older)	9 444	9 444
Tertiary (Persons 75 and older)	3 145	3 145

Tax threshold

	2024/25	2023/24
	R	R
Below age 65	95 750	95 750
Age 65 to below 75	148 217	148 217
Age 75 and older	165 689	165 689

Annual income tax payable and average tax payable comparison (taxpayers younger than 65):

Taxable Income	2023/24 Tax	2024/25 Tax	Tax Change	Change	Average Tax Rates	
R	R	R	R	%	Old Rates	New Rates
85 000	-	-	-	-	-	-
90 000	-	-	-	-	-	-
100 000	765	765	-	0.0%	0.8%	0.8%
120 000	4 365	4 365	-	0.0%	3.6%	3.6%
150 000	9 765	9 765	-	0.0%	6.5%	6.5%
200 000	18 765	18 765	-	0.0%	9.4%	9.4%
250 000	28 797	28 797	-	0.0%	11.5%	11.5%
300 000	41 797	41 797	-	0.0%	13.9%	13.9%
400 000	69 272	69 272	-	0.0%	17.3%	17.3%
500 000	100 272	100 272	-	0.0%	20.1%	20.1%
750 000	191 942	191 942	-	0.0%	25.6%	25.6%
1 000 000	292 284	292 284	-	0.0%	29.2%	29.2%
1 500 000	497 284	497 284	-	0.0%	33.2%	33.2%
2 000 000	709 604	709 604	-	0.0%	35.5%	35.5%

Source: National Treasury

Retirement fund lump sum withdrawal benefits

2024/25	
Taxable Income (R)	Rate of Tax (R)
0 – 27 500	0% of taxable income
27 501 – 726 000	18% of taxable income above 27 500
726 001 – 1 089 000	125 730 + 27% of taxable income above 726 000
1 089 001 and above	223 740 + 36% of taxable income above 1 089 000

Retirement fund lump sum benefits or severance benefits

2024/25	
Taxable Income (R)	**Rate of Tax (R)**
0 – 550 000	0% of taxable income
550 001 – 770 000	18% of taxable income above 550 000
770 001 – 1 155 000	39 600 + 27% of taxable income above 770 000
1 155 001 and above	143 550 + 36% of taxable income above 1 155 000

Capital gains tax effective rate (%)

	2024/25	2023/24
For individuals and special trusts	18%	18%
Companies	21.6%	21.6%
Trusts	36%	36%

Capital gains exemptions

Description	2024/25	2023/24
	R	R
Annual exclusion for individuals and special trusts	40 000	40 000
Exclusion on death	300 000	300 000
Exclusion in respect of disposal of primary residence (based on amount of capital gain or loss on disposal)	2 million	2 million
Maximum market value of all assets allowed within definition of small business on disposal when person over 55	10 million	10 million
Exclusion amount on disposal of small business when person over 55	1.8 million	1.8 million

Corporate Income Tax Rates

Income tax - Companies

For the financial years ending on any date between 1 April 2024 and 31 March 2025, the following rates of tax will apply:

	2024/25	2023/24
Type	Rate of Tax (%)	Rate of Tax (%)
Companies (other than gold mining companies and long term insurers)	27	27
Personal service providers	27	27
Foreign resident companies earning income from a South African source	27	27
Dividends Tax	20	20

Tax regime for small business corporations

2024/25		2023/24	
Taxable Income (R)	Rates of Tax	Taxable Income (R)	Rates of Tax
1 – 95 750	0% of taxable income	1 – 91 250	0% of taxable income
95 751 – 365 000	7% of taxable income above R95 750	91 251 – 365 000	7% of taxable income above R95 750
365 001 – 550 000	R18 848 + 21% of taxable income over R365 00	365 001 – 550 000	R18 848 + 21% of taxable income over R365 00
550 001 and above	R57 698 + 27% of the amount above R550 000	550 001 and above	R57 698 + 27% of the amount above R550 000

Income tax rates for trusts

2024/25	2023/24
Rate of Tax (%)	
45	45

Tax-free portion of interest

	2024/25	2023/24
Interest	R	R
Under 65	23 800	23 800
Over 65	34 500	34 500

Withholding tax - non-residents	Rate of tax
	%
Dividends	20%
Interest	15%
Royalties	15%
Foreign entertainers and sportspersons	15%

Transfer Duty

The transfer duty table affecting sales on or from 1 March 2024, and which applies to all types of purchasers, is as follows:

Value of property (R)	Rate (R)
0 – 1 100 000	0% of property value
1 100 001 - 1 512 500	3% of property value above R1 100 000
1 512 501 - 2 117 500	12 375 + 6% of the value above 1 512 500
2 117 501 - 2 722 500	48 675 + 8% of the value above 2 117 500
2 722 501 – 12 100 000	97 075 + 11% of the value above 2 722 500
12 100 001 and above	1 128 600 + 13% of property value above R12 100 000

Medical tax credits

Description (monthly amounts)	2024/25	2023/24
	R	R
Medical scheme fees tax credit, in respect of benefits to the taxpayer	364	364
Medical scheme fees tax credit, in respect of benefits to the taxpayer and one dependent	728	728
Medical scheme fees tax credit, in respect of benefits to each additional dependant	246	246

About Werksmans Tax Practice

The Werksmans Tax Practice is able to respond swiftly and effectively to South African and international tax matters. Team members have many years' experience in consulting to the commercial sector and are able to provide integrated advice and assistance on a wide range of local or international tax issues. Ongoing tax changes and the aggressive stance of the South African Revenue Service have elevated tax law in South Africa to a highly specialised area of practice.

The many changes in tax law since 2001 have resulted in a complex tax system, the complexity of which increases annually with comprehensive amendments. These cover multiple aspects such as ever-changing corporate restructuring rules, tax rules affecting financial instruments, rules affecting retirement and so on. The team's focus is on assisting corporates and high-net-worth individuals who seek comprehensive, up-to-date tax advice.

Services range from consulting on the tax aspects of clients' commercial dealings to interacting on their behalf with the tax authorities and, where necessary, dealing with objections and disputes. Team members are also skilled in handling settlement negotiations, appeals in the Tax Court and High Court, and alternative dispute resolution processes.

Special areas of expertise include the tax aspects of commercial activities such as mergers and acquisitions (M&A), private equity and black economic empowerment transactions, and corporate reconstructions.

In terms of international tax services, the team has a well-established track record in inward and outward investment matters and offshore structuring, taking into account the exchange control implications thereof.

Services include dealing with:

- Domestic tax: income tax, withholding tax, capital gains tax, employees' tax, value-added tax and securities transfer tax;
- International tax: inward and outward investment;
- Estate planning: domestic and international;
- Financial services and products: tax rules relating to insurance, private equity, securitisations, hedge funds, structured and project finance, debt and derivative instruments;
- Tax structuring of black economic empowerment transactions, M&A, unbundlings, reconstructions;
- Management buyouts, distributions, funding, securities issues and buybacks;
- Exchange control advice in relation to the above;
- Liaison and negotiation with tax authorities and regulators; and
- Tax litigation and dispute resolution: settlement negotiations, alternative dispute resolution, objections and Tax Court appeals.

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About us

Established in the early 1900s, Werksmans Attorneys is a leading South African corporate and commercial law firm, serving multinationals, listed companies, financial institutions, entrepreneurs and government.

Operating in Gauteng and the Western Cape, the firm is connected to an extensive African legal alliance through LEX Africa. LEX Africa was established in 1993 as the first and largest African legal alliance and offers huge potential for Werksmans' clients seeking to do business on the continent by providing a gateway to Africa.

With a formidable track record in mergers and acquisitions, banking and finance, business rescue and restructuring, commercial litigation and dispute resolution, Werksmans is distinguished by the people, clients and work that it attracts and retains.

Werksmans' more than 200 lawyers are a powerful team of independent-minded individuals who share a common service ethos. The firm's success is built on a solid foundation of insightful and innovative deal structuring and legal advice, a keen ability to understand business and economic imperatives and a strong focus on achieving the best legal outcome for clients.

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